IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

COMPANY PETITION No 163 of 2000

in

COMPANY APPLICATIONNo 137 of 2000

And

COMPANY PETITION No 164 of 2000

in

COMPANY APPLICATION No 138 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE C.K.BUCH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

MEGA CAPITAL LIMITED

Versus

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Appearance:

MRS SWATI SOPARKAR for Petitioner

DS AFF.NOT FILED (N) for Respondent No. 1

CORAM : MR.JUSTICE C.K.BUCH

Date of decision: 14/09/2000

ORAL JUDGEMENT

#. Heard Ms.Soparkar, learned counsel for the petitioner, Ms.P.J.Dawawala, learned Additional Central Government Standing Counsel appearing for the Central Government and the Official Liquidator who is present in the court.

#. On perusal of the averments made in the petitions and the reports filed by the Official Liquidator, I am satisfied that both these petitions deserves to be allowed as the same are not resisted by any of the parties who are served with the notice. There is no resistance even after the publication of the public advertisement in the English daily - Indian Express and Gujarati daily - Jansatta (both Ahmedabad Editions). I have also considered the contents of the letter addressed to Ms.Dawawala dated 11.9.2000. The letter is tendered today by Ms.Dawawala and the same is taken on record.

#. These are the petitions filed by two companies viz. Mega Capital Limited (Transferor Company) and Zenith Health Care Limited (the Transferee Company) for sanction of a scheme of arrangement in the nature of reduction and reorganisation of the share capital of Zenith Health Care Limited and the scheme of amalgamation of the Transferor company with the Transferee company under section 391 read with section 394 of the Companies Act, 1956.

#. The Transferor Company is a closely held, unlisted but registered Non Banking Finance Company. It is engaged in the activity of investment of funds in the capital market. The Transferee Company is a listed public limited company. It is engaged in manufacturing of pharmaceuticals. The amalgamation would give the synergic benefits to the amalgamated company. The petitions give details of the advantages that would flow by virtue of the amalgamation of these companies. The petitions also give the justification for the reduction of capital of the Transferee Company and also of the necessary resolutions passed in the General Meeting for this purpose.

#. The Equity shareholders of both the Transferor and

the Transferee Company had unanimously approved the scheme during the respective meetings convened on 15.5.2000 in accordance with the orders dated 3.4.2000 passed in the respective applications. There are no secured or unsecured creditors of the Transferor Company. Hence, their meeting was not necessary.

#. After the petitions were admitted they were advertised in the newspapers and the publication in the Government Gazette was dispensed with as directed in the order dated 26.6.2000. No one has filed any objection to these petitions even after the publication.

#. Notice of the petitions has been served upon the Central Government and Shri Akshaybhai H. Mehta, Central Government Standing Counsel and Smt.P.J.Dawawala, Additional Central Government Standing Counsel appearing for the Central Government have stated that the Central Government has no objection in sanctioning the Scheme of Amalgamation. Smt.Dawawala has put on record the letter dated 11.9.2000 from the office of the Registrar of Companies for the said purpose.

#. Notice of the petitions of the Transferor Companies has also been served upon the Official Liquidator as required under 2nd proviso to section 394(1) of the Act and the Official Liquidator has filed his Reports dated 13.9.2000 stating that the affairs of the Transferor Companies have not been conducted in a manner prejudicial to its members or to public interest.

#. I have heard Smt.Swati Saurabh Soparkar, learned Advocate for the petitioner companies. Having gone through the petitions I am satisfied that both the reduction and reorganisation of the share capital and the amalgamation would be in the interest of the companies and their members. Further, perusing the special resolution passed by the company in the general meeting (as per para 10 of the Company Petition No.164/2000) and being satisfied that the reduction does not involve any diminution of liability or repayment of capital, the minutes as laid down in para 13 of the above petition is hereby approved. Under the circumstances the Scheme of reduction and reorganisation of share capital of Zenith Health Care Limited and the Scheme of Amalgamation (Annexure-C to the petitions) is sanctioned. Prayers in terms of para 23(A) & (C) in case of the Transferee Company in Company Petition No.164/2000 and in terms of Para 18(A) in case of Company Petition No.163/2000 of the Transferor Company are granted.

##. The petitions are disposed of accordingly. So far as the costs to be paid to the Central Government Standing Counsel is concerned, I quantify the same at Rs.2500/- per petition. The same is to be paid to Shri Akshaybhai Mehta for the Transferee Company and Smt.P.J. Dawawala for the Transferor Company.

(C.K.Buch,J)
(pathan)